

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY
CABLE TELEVISION DIVISION

TRANSFER BULLETIN 00-1

May 17, 2000

To the Issuing Authorities licensed to Cablevision:

As you may know, AT&T has announced that it will acquire cable franchises in the Massachusetts communities currently owned by Cablevision. These acquisitions, all of which constitute either a legal assignment or transfer of control of the affected franchises, are subject to issuing authority approval under state law. We anticipate that AT&T and Cablevision will file Federal Communications Commission Form 394 transfer applications in all of Cablevision's Massachusetts communities by June 1, 2000. By this bulletin, the Massachusetts Department of Telecommunications and Energy's Cable Television Division ("Cable Division") informs communities of the transfer process and public hearing requirements.

Section 7 of G.L. c. 166A states that "[n]o license or control thereof shall be transferred or assigned without the prior written consent of the issuing authority, which consent shall not be arbitrarily or unreasonably withheld. Such consent shall be given only after a hearing upon a written application therefor on forms to be prescribed by the division." The legal standard that applies to approving or denying the transfer is determined by state law. The issuing authority may consider "only the transferee's (a) management experience, (b) technical expertise, (c) financial capability and (d) legal ability to operate a cable system under the existing license." 207 C.M.R. § 4.04(1)(a)-(d); Order of Motions for Summary Decision/Consolidation, CTV 99-2, 99-3, 99-4, 99-5 (May 1, 2000). In addition, the issuing authority may not propose amendments to or renegotiate the terms of the existing license or any license renewal proposal. 207 C.M.R. § 4.04(2). Furthermore, under federal law, 47 U.S.C. § 537, the transfer is deemed approved if you take no action within 120 days of your receipt of the transfer application.

The transfer process begins when your community receives a transfer application, also called a Form 394, which provides detailed information on the proposed transfer. Your community's receipt of the completed Form 394 triggers a maximum 120-day time period for your review of the proposal. The receipt of the Form 394 also triggers a 60-day time period in which the issuing authority must hold a public hearing pursuant to the Cable Division's regulations. Notice of the hearing must be published in a newspaper of general circulation in the affected city or town in each of two successive weeks, the first publication being not less than 14 days before the day of any such hearing. 207 C.M.R. § 2.02. The issuing authority is responsible for providing the location and legal notice of the hearing and conducting the hearing. 207 C.M.R. § 4.03.

In license transfers involving large numbers of communities, the Cable Division has had success in the past arranging regional public hearings. In order to provide a useful alternative to the above-described hearing process, the Cable Division has waived the requirement that an issuing authority hold an individual hearing to consider a transfer application and arranged a number of regional hearings in which issuing authorities were given the option to participate. Communities have found the regional public hearing process to be especially useful during summer months when scheduling conflicts create a burden on issuing authorities to read and digest a transfer application, to hold a public hearing, and to issue a decision within the federally mandated 120-day period. A special magistrate designated by the Cable Division conducts these hearings. The special magistrate is responsible for presiding over the hearings, collecting and evaluating information received during the process, and making *non-binding* recommendations to all participating issuing authorities. Issuing authorities must ultimately consider the application and make a decision on whether or not to approve the transfer.

We anticipate that AT&T and Cablevision will request that the Cable Division arrange a regional hearing process to review the transfer application. If we decide to approve the companies' request, we will provide all affected communities with more specific information about the regional transfer process, including dates and locations of the regional hearings.

In the upcoming weeks, the Cable Division will schedule a series of informational sessions to provide issuing authorities with the regulatory and statutory requirements applicable to cable license transfers before the legal public hearings must be conducted. The Cable Division's Municipal Liaison, Gordon Champion, will be contacting all Cablevision communities with information regarding the scheduling and locations of these sessions shortly. Representatives from both AT&T and Cablevision will be invited to these meetings to answer any questions following an informal presentation by the Cable Division. We encourage issuing authorities, or their designated representatives, to attend one of these forums, as issuing authorities have found these past sessions to be useful and informative.

We look forward to assisting each community as it moves through the transfer process. Please do not hesitate to contact us if you have questions. For further information about the license transfer process, please call Gordon Champion, Municipal Liaison, or Peter Corea, Assistant General Counsel, toll free at 888-622-2588. You may also visit our web site at <http://www.state.ma.us/dpu/catv>, or e-mail us at mcable@state.ma.us.